



# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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## Substitute Bill Comparative Synopsis

**Sub. H.B. 134**

**136<sup>th</sup> General Assembly**

House Agriculture

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_136_0427-5)
<b>Microenterprise home kitchen operation (MEHKO) inspections</b>	
Requires the Director of Agriculture (ODA Director) or the ODA Director's designee to inspect a microenterprise home kitchen operation (MEHKO), but only once per year, unless the Director or their designee is investigating a report of foodborne illness, has reasonable suspicion of an immediate threat to public health, or is re-inspecting a MEHKO that had a violation detected in a prior inspection ( <i>R.C. 3715.026(C)(1)</i> ).	Retains the requirement that the ODA Director or their designee inspect the premises of every MEHKO, but does not impose any limitations on conducting those inspections ( <i>R.C. 3715.026(C)(1)</i> ).

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<p>Limits the areas on a MEHKO registrant's premises for which the ODA Director or their designee may inspect the home kitchen in the home <i>(R.C. 3715.026(C)(1))</i>.</p> <p>Requires the ODA Director or their designee to obtain an administrative warrant prior to conducting any inspection <i>(R.C. 3715.026(C)(2))</i>.</p> <p>No provision.</p> <p>Allows the ODA Director to charge an inspection fee of up to \$75 annually <i>(R.C. 3715.026(C)(3))</i>.</p> <p>Requires ODA to ensure that each MEHKO receives a copy of the inspection standards and criteria it uses to conduct inspections when submitting an application for registration with ODA <i>(R.C. 3715.026(C)(4))</i>.</p>	<p>Expands the areas that the ODA Director or their designee may inspect to also include locations of the home where homemade food items and ingredients are stored and bathrooms in the home to ensure that there is a functioning hand washing sink and liquid soap <i>(R.C. 3715.026(C)(1))</i>.</p> <p>Instead requires the ODA Director or their designee to obtain a search warrant when required by law to enter a home if a MEHKO does not consent to an inspection <i>(R.C. 3715.026(C)(2))</i>.</p> <p>Specifies that a search warrant or administrative warrant is otherwise not required to conduct an inspection by the ODA Director or their designee <i>(R.C. 3715.026(C)(2))</i>.</p> <p>Decreases the amount that the ODA Director may annually charge for inspections to \$50 <i>(R.C. 3715.026(C)(3))</i>.</p> <p>No provision.</p>
<b>Homemade food item</b>	
<p>Specifies that a homemade food item is any food made at the home of a MEHKO, but does not include alcoholic beverages, or food containing any drug, thus excluding those types of items from the ability to be produced and sold with a MEHKO registration <i>(R.C. 3715.026(A)(1))</i>.</p>	<p>Expands the types of items that are excluded from the definition of a homemade food item (and thus excluding them from being able to be produced and sold with a MEHKO registration) to also include the following:</p> <ul style="list-style-type: none"> <li>▪ Low-acid canned foods;</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Foods prepared through smoking or curing as a preservation method;</li> <li>▪ Juices unless produced in accordance with the bill's codified meat processing standards, see "<b>Custom meat processing</b>," below;</li> <li>▪ Custom processed meats or poultry;</li> <li>▪ Shellfish from the operation of a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption; and</li> <li>▪ Potentially hazardous foods prepared using reduced oxygen methods (<i>R.C. 3715.026(A)(1)</i>).</li> </ul>
Food safety and storage and preparation requirements	
<p>Prohibits a MEHKO from operating unless all of the following requirements are met:</p> <ol style="list-style-type: none"> <li>1. The home kitchen is equipped with at least one accessible hand washing sink plumbed with hot and cold potable water and supplied with hand soap.</li> <li>2. The home kitchen has surfaces that are easy to clean and sanitized with a sanitizer that is safe to use on food preparation surfaces.</li> <li>3. The home kitchen is free from pests.</li> <li>4. Garbage and refuse are kept in closed containers and removed from the premises regularly.</li> </ol>	<p>Eliminates the bill's requirements concerning food safety and storage and preparation and instead requires the MEHKO to be in compliance with those food safety standards set forth in the Ohio Uniform Food Safety Code that could reasonably apply to a MEHKO (<i>R.C. 3715.026(E)</i>).</p>

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<ol style="list-style-type: none"> <li>5. The home kitchen has mechanical refrigeration with sufficient capacity to maintain the temperature of potentially hazardous food at 41° F or below.</li> <li>6. All equipment, utensils, and containers used in the preparation of food in the home kitchen is washed with soap and water or sanitizer for cleaning food contact surfaces and kept clean.</li> <li>7. Animals, including pets, do not enter the home kitchen while food is being prepared (<i>R.C. 3715.026(E)</i>).</li> </ol> <p>Requires a MEHKO to comply with all of the following food storage and preparation requirements:</p> <ol style="list-style-type: none"> <li>1. Food must be in sound condition, free from spoilage, filth, or other contamination, and must be safe for human consumption. Food products cannot be stored on the floor, and food can only be prepared in the home kitchen.</li> <li>2. Prepared potentially hazardous food must be maintained at 41° F or below under mechanical refrigeration.</li> <li>3. Prepared potentially hazardous food must be cooled to 41° F or below within four hours of preparation.</li> <li>4. Food ingredients must be stored in original containers. If removed from the original container, food and ingredients must be stored in labeled and closed containers of a material that will prevent the food from becoming adulterated.</li> <li>5. Any person preparing food in the home kitchen must do all the following: <ol style="list-style-type: none"> <li>a. Be free from contagious or communicable diseases, sores, or infected wounds, and keep their hair restrained;</li> </ol> </li> </ol>	

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<ul style="list-style-type: none"> <li>b. Keep themselves and their clothing clean;</li> <li>c. Ensure that their hands are washed as frequently as necessary to maintain good sanitation and not cross-contaminate food;</li> <li>d. Minimize bare hand contact with prepared food; and</li> <li>e. Not smoke while handling or preparing food or in food preparation or storage areas while preparing food (<i>R.C. 3715.026(F)</i>).</li> </ul>	
No provision.	Requires the ODA Director or their designee to publish on its website the food safety standards that apply to MEHKOs ( <i>R.C. 3715.026(E)</i> ).
No provision.	<p>Prohibits the ODA Director or their designee from requiring a MEHKO to do any of the following:</p> <ul style="list-style-type: none"> <li>1. Use commercial kitchen equipment or other specialized kitchen equipment such as a three-compartment sink;</li> <li>2. Alter the structure or design of the home kitchen;</li> <li>3. Install or modify venting in the home kitchen;</li> <li>4. Require a certain countertop be used in a home kitchen; or</li> <li>5. Prevent the presence of pets from parts of the home where food is not being stored or prepared, including the kitchen when homemade food items to be sold are not being prepared (<i>R.C. 3715.026(E)</i>).</li> </ul>

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<b>Sale and delivery standards and requirements</b>	
<p>Allows homemade food items that do not contain dairy or meat to be sold by the MEHKO to the consumer in person or remotely, including by telephone or internet, or by an agent of the MEHKO or third-party vendor and allows the MEHKO or third-party carrier, such as the U.S. Postal Service, to deliver the homemade food item <i>(R.C. 3715.026(G)(1))</i>.</p>	<p>Same, except specifies that homemade food items also cannot contain poultry or seafood or be dairy products (rather than foods containing dairy) for such sale and delivery standards to apply <i>(R.C. 3715.026(F)(1))</i>.</p>
<p>Requires homemade food items that contain dairy or meat to be sold by the MEHKO to the consumer, either in person or remotely, including by telephone or internet, or by an agent of the MEHKO or a third-party vendor, but requires the MEHKO to deliver the homemade food item to the consumer in person <i>(R.C. 3715.026(G)(2))</i>.</p>	<p>Same, except also applies the requirement to homemade food items that contain poultry or seafood and to dairy products (rather than foods containing dairy) <i>(R.C. 3715.026(F)(2))</i>.</p>
<p>No provision.</p>	<p>Requires potentially hazardous homemade food items to be delivered to the consumer within seven calendar days of the MEHKO completing preparation of the food <i>(R.C. 3715.026(F)(3))</i>.</p>
<p>No provision.</p>	<p>Requires a MEHKO to complete food safety training approved by the ODA Director or their designee prior to selling any food <i>(R.C. 3715.026(F)(4))</i>.</p>
<p>No provision.</p>	<p>Requires the ODA Director or their designee to ensure that low-cost and online options for food safety training are available for MEHKOs <i>(R.C. 3715.026(F)(4))</i>.</p>
<b>Suspension or revocation of a MEHKO registration</b>	
<p>Requires the ODA Director or their designee, prior to suspending or revoking a MEHKO registration, to provide the MEHKO a warning, allow the MEHKO to have an opportunity to correct the violation, and allow</p>	<p>Removes the prerequisite that the ODA Director or their designee provide the MEHKO with an opportunity to appeal the suspension or</p>

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the MEHKO to have an opportunity to appeal the suspension or revocation ( <i>R.C. 3715.026(I)(1)</i> ).	revocation, but states that the MEHKO still has the right to appeal the suspension or revocation ( <i>R.C. 3715.026(I)(1)</i> ).
<b>Limit on a MEHKO's annual gross receipts</b>	
No provision.	Limits a MEHKO's gross receipts for sales of potentially hazardous homemade food items under the registration from exceeding \$150,000 per calendar year ( <i>R.C. 3715.026(G)</i> ).
<b>MEHKO's ability to engage as a cottage food operation or licensed home bakery</b>	
No provision.	Specifies that the bill's MEHKO provisions cannot be construed to interfere with a MEHKO's ability to also sell food as a cottage food operation or a licensed home bakery ( <i>R.C. 3715.026(G)</i> ).
<b>Custom meat processing</b>	
No provision.	<p>Codifies Ohio Administrative Code (O.A.C.) rule 3717-1-08.2, which specifies custom meat (game animals, migratory waterfowl, and game birds) processing standards that apply to food service operations and retail food establishments as follows:</p> <ol style="list-style-type: none"> <li>1. Requires a food service operation or retail food establishment to custom process meat only at the end of the work shift or day to prevent any cross contamination of product for sale or service;</li> <li>2. Prior to entry into the food service operation or retail food establishment, requires the operation or establishment to ensure that, with respect to custom process meat, any animal carcass is skinned, beheaded, eviscerated, and free of hair and any bird carcass is eviscerated and free of feathers;</li> </ol>

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	<ol style="list-style-type: none"><li>3. If the hide and head of a custom meat product is to be retained for the owner, requires the food service operation or retail food establishment to package and segregate the product from all food;</li><li>4. Requires a food service operation or retail food establishment to ensure that any custom meat product is wrapped or containerized and stored segregated from all retail products so as to prevent contamination;</li><li>5. Immediately after custom meat processing, requires a food service operation or retail food establishment to ensure that all knives, tables, hooks, grinders, tenderizers, lugs, inedible barrels, saws, or any other equipment soiled during custom meat processing are thoroughly cleaned according to applicable standards set forth in adopted rules;</li><li>6. When a Department of Natural Resources inspection tag is required for an animal subject to custom meat processing, requires a food service operation or retail food establishment to ensure that the tag or tag number remains with the animal throughout the process period and returned with the meat product to the owner; and</li><li>7. Requires a food service operation or retail food establishment to identify all products for custom meat processing in the facility as not for sale (<i>R.C. 3715.21</i>).</li></ol>